

MAR 11 2004

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FROM: KATHRYN LAPPEGARD

RE: U.S. PATENT APPLICATION SERIAL NO. 10/042,894  
ATTORNEY DOCKET NO. 1286

DATE: 03/11/04 FAX NUMBER: (703) 872-9306

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PTO/SB/97 (08-03)

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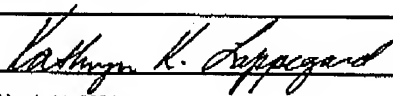
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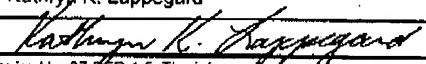
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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)		Application Number	10/042,894
		Filing Date	01/09/2002
		First Named Inventor	Jinrui Shi
		Art Unit	1638
		Examiner Name	Baum, Stuart F.
Total Number of Pages in This Submission	3	Attorney Docket Number	1286

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Restriction Requirement
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Firm or Individual name	Kathryn K. Lappegard	
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FICIAL

First Named Inventor : Jinrui Shi  
Application Number : 10/042,894  
Filing Date : 01/09/2002  
Title : Novel Inositol Polyphosphate Kinase Genes and  
Uses Thereof  
  
Group/Art Unit : 1638  
Examiner : Baum, Stuart F.  
  
Attorney Docket Number : 1286

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## RESPONSE TO RESTRICTION REQUIREMENT

This response is responsive to the Office Action mailed February 13, 2004.

Applicant elects with traverse claims 1-4, 6-11, and 13-21 of Group I, and one DNA sequence, drawn to an isolated nucleic acid in sense orientation, vector, host cell, transgenic plant and method for modulating inositol. Applicant hereby provisionally elects the DNA sequence represented by SEQ ID NO: 7 and the corresponding amino acid sequence represented by SEQ ID NO: 8.

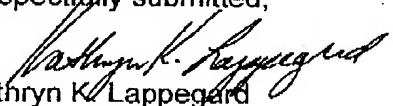
Applicant respectfully reminds the Examiner that the one nucleotide sequence per application rule, 37 CFR 1.141 et seq., is partially waived by the Commissioner. MPEP 803.04 states "Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, The Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 et seq. and permit a reasonable number of such nucleotide sequences to be claimed in a single application." The MPEP goes on to state "[A]ccordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction."

Serial No. 10/042,894  
Group Art Unit: 1638

The isolated nucleic acids recited in Claim 1 do not constitute independent and distinct inventions. The nucleic acids have all been isolated by the same primer pairs: SEQ ID NOS: 26 and 27 (see specification, page 15, lines 1-2) from different maize lines (the specification, page 39, line 9) and have the same function (see the specification, page 21, lines 16 - 20). Therefore, applicant believes that the isolated nucleic acids of Claim 1 should be examined in a single application, and not be subject to restriction.

It is not believed that an extension of time or fees are required. However, in the event that additional extensions of time are necessary to allow consideration of the paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-1852.

Respectfully submitted,

  
Kathryn K. Lappegard  
Agent for Applicants  
Registration No. 46,857

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